

MONTANA LEGISLATIVE HISTORY

Chapter 141 ~~19~~ 2005

Bill H _____ S 189 Original bill & history X c

H. Committee on BUSINESS & LABOR

Hearing Date(s) 3/8 X c

*EXEC ACTION

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on BUSINESS & LABOR

Hearing Date(s) 1/19 X c

*EXEC
ACTION

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

REALPLAYER AUDIOFILES OF BOTH HEARINGS
ARE AVAILABLE ONLINE. CALL FOR DETAILS
ON HOW TO ACCESS THESE RECORDINGS.

SENATE BILL NO. 189
INTRODUCED BY V. COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE IMPAIRMENT MEDICAL EVALUATION PROCEDURES FOR WORKERS' COMPENSATION APPLY TO IMPAIRMENT RATING DISPUTES; AMENDING SECTIONS 39-71-605 AND 39-71-711, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-605, MCA, is amended to read:

"39-71-605. Examination of employee by physician -- effect of refusal to submit to examination -- report and testimony of physician -- cost. (1) (a) Whenever in case of injury the right to compensation under this chapter would exist in favor of any employee, the employee shall, upon the written request of the insurer, submit from time to time to examination by a physician, psychologist, or panel that must be provided and paid for by the insurer and shall likewise submit to examination from time to time by any physician, psychologist, or panel selected by the department or as ordered by the workers' compensation judge.

(b) The request or order for an examination must fix a time and place for the examination, with regard for the employee's convenience, physical condition, and ability to attend at the time and place that is as close to the employee's residence as is practical. An examination that is conducted by a physician, psychologist, or panel licensed in another state is not precluded under this section. The employee is entitled to have a physician present at any examination. If the employee, after written request, fails or refuses to submit to the examination or in any way obstructs the examination, the employee's right to compensation must be suspended and is subject to the provisions of 39-71-607. Any physician, psychologist, or panel employed by the insurer or the department who makes or is present at any examination may be required to testify as to the results of the examination.

(2) In the event of a dispute concerning the physical condition of a claimant or the cause or causes of the injury or disability, if any, the department or the workers' compensation judge, at the request of the claimant or insurer, as the case may be, shall require the claimant to submit to an examination as it considers desirable by a physician, psychologist, or panel within the state or elsewhere that has had adequate and substantial experience in the particular field of medicine concerned with the matters presented by the dispute. The

physician, psychologist, or panel making the examination shall file a written report of findings with the claimant and insurer for their use in the determination of the controversy involved. The requesting party shall pay the physician, psychologist, or panel for the examination.

(3) As used in this section, a panel includes a practitioner having substantial experience in the field of medicine concerned with the matters presented by the dispute and whose licensure would qualify the practitioner to act as a treating physician, as defined in 39-71-116, and may include a psychologist.

(4) A claimant is required, upon a written request of an insurer, to submit to a functional capacities evaluation conducted by a licensed physical or occupational therapist.

~~(5) This section does not apply to impairment evaluations provided for in 39-71-711."~~

Section 2. Section 39-71-711, MCA, is amended to read:

"39-71-711. Impairment evaluation -- ratings. (1) An impairment rating:

(a) is a purely medical determination and must be determined by an impairment evaluator after a claimant has reached maximum healing;

(b) must be based on the current edition of the Guides to Evaluation of Permanent Impairment published by the American medical association;

(c) must be expressed as a percentage of the whole person; and

(d) must be established by objective medical findings.

(2) A claimant or insurer, or both, may obtain an impairment rating from an evaluator who is a medical doctor or from an evaluator who is a chiropractor if the injury falls within the scope of chiropractic practice. If the claimant and insurer cannot agree upon the rating, the mediation procedure in part 24 of this chapter must be followed.

(3) An evaluator must be a physician licensed under Title 37, chapter 3, except if the claimant's treating physician is a chiropractor, the evaluator may be a chiropractor who is certified as an evaluator under chapter 12.

(4) Disputes over impairment ratings are not subject to the provisions of 39-71-605."

NEW SECTION. Section 3. Effective date -- applicability. [This act] is effective on passage and approval and applies to impairment evaluations completed on or after [the effective date of this act].

- END -

Bill Draft Number: LC0481**Bill Type - Number:** SB 189**Short Title:** Clarify conditions for work comp impairment evaluation**Primary Sponsor:** Vicki Cocchiarella**Bill Actions - Current Bill Progress:** Became Law**Bill Action Count:** 42

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	03/30/2005			
(S) Signed by Governor	03/30/2005			
(S) Transmitted to Governor	03/21/2005			
(H) Signed by Speaker	03/21/2005			
(S) Signed by President	03/19/2005			
(S) Returned from Enrolling	03/17/2005			
(C) Sent to Printing	03/16/2005			
(S) Sent to Enrolling	03/16/2005			
(H) Returned to Senate	03/15/2005			
(H) 3rd Reading Concurred	03/15/2005	97	1	
(H) Scheduled for 3rd Reading	03/15/2005			
(C) Sent to Printing	03/14/2005			
(H) 2nd Reading Concurred	03/14/2005	98	0	
(H) Scheduled for 2nd Reading	03/14/2005			
(H) Committee Report--Bill Concurred	03/09/2005			(H) Business and Labor
(H) Committee Executive Action--Bill Concurred	03/08/2005	18	0	(H) Business and Labor
(H) Hearing	03/08/2005			(H) Business and Labor
(H) Referred to Committee	02/22/2005			(H) Business and Labor
(H) First Reading	02/22/2005			
(S) Transmitted to House	01/24/2005			
(S) 3rd Reading Passed	01/24/2005	49	0	
(S) Scheduled for 3rd Reading	01/24/2005			
(S) 2nd Reading Passed on Voice Vote	01/21/2005	50	0	
(S) Scheduled for 2nd Reading	01/21/2005			
(S) Committee Report--Bill Passed	01/19/2005			(S) Business, Labor, and Economic Affairs
(S) Committee Executive Action--Bill Passed	01/19/2005	11	0	(S) Business, Labor, and Economic Affairs
(S) Hearing	01/19/2005			(S) Business, Labor, and Economic Affairs

(C) Introduced Bill Text Available Electronically	01/10/2005	
(S) Referred to Committee	01/10/2005	(S) Business, Labor, and Economic Affairs
(S) First Reading	01/10/2005	
(S) Introduced	01/10/2005	
(C) Draft Delivered to Requester	01/07/2005	
(C) Draft Ready for Delivery	12/29/2004	
(C) Draft in Assembly/Executive Director Review	12/26/2004	
(C) Draft in Final Drafter Review	12/22/2004	
(C) Bill Draft Text Available Electronically	12/21/2004	
(C) Draft in Input/Proofing	12/21/2004	
(C) Draft to Drafter - Edit Review [SAB]	12/21/2004	
(C) Draft in Edit	12/21/2004	
(C) Draft in Legal Review	12/20/2004	
(C) Draft to Requester for Review	10/19/2004	
(C) Draft Request Received	10/06/2004	

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Cocchiarella	Vicki
Drafter	McClure	Eddy
Primary Sponsor	Cocchiarella	Vicki

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Workers' Compensation (see also: Labor and Employment)		Simple	WORK

Additional Bill Information

Probable Fiscal Note: No

Preintroduction Required: N

Session Law Ch. Number: 141

DEADLINE

Category: General Bills

Transmittal Date: 03/01/2005

Return (with 2nd house amendments) Date: 04/06/2005

Section Effective Dates

Section(s) Effective Date Date Qualified

All Sections 30-MAR-05

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: By **CHAIRMAN VICKI COCCHIARELLA**, on January 19, 2005 at 9:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Vicki Cocchiarella, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Duane Grimes (R)
Sen. Dave Lewis (R)
Sen. Glenn Roush (D)
Sen. Frank Smith (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused:

Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 8, 1/14/2005; SB 188, 1/14/2005;
SB 189, 1/14/2005
Executive Action: SB 165, SB 189

Mr. Shawn Bubb, Director of Insurance, Montana School Board
Association

Mr. Jed Fitch, Montana Trial Lawyers Association

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

00:47:35

Closing by Sponsor:

00:47:51

HEARING ON SB 189

Opening Statement by Sponsor: SEN. VICKI COCCHIARELLA (D), SD 47,
opened the hearing on SB 189, Clarify conditions for work comp
impairment evaluation.

00:51:38

Proponents' Testimony:

Mr. George Wood, Executive Secretary, Montana Self Insurers
Association

Ms. Nancy Butler, Montana State Fund

Mr. Bob Worthington, Montana Municipal Insurance Association

Opponents' Testimony: None.

00:52:30

Informational Testimony:

Mr. Jerry Keck, Employee Relations Division, Department of Labor
and Industry

00:53:08

Questions from Committee Members and Responses:

00:54:23

Closing by Sponsor:

00:55:00

EXECUTIVE ACTION ON SB 165

Motion: SEN. GRIMES moved that SB 165 DO PASS.

Discussion:

Motion/Vote: SEN. SQUIRES moved that SB 165 BE AMENDED. Motion carried unanimously.

Motion/Vote: SEN. SQUIRES moved that SB 165 DO PASS AS AMENDED. Motion carried unanimously.

00:59:32

EXECUTIVE ACTION ON SB 5

Discussion:

EXHIBIT(bus14a06)

EXHIBIT(bus14a07)

EXHIBIT(bus14a08)

Motion: SEN. BALLYEAT moved that SB 5 DO PASS.

Discussion:

SEN. BALLYEAT withdrew his motion.

01:29:26

EXECUTIVE ACTION ON SB 189

Motion/Vote: SEN. GRIMES moved that SB 189 DO PASS. Motion carried unanimously.

SEN. COCCHIARELLA PROXIED FOR SEN. TESTER ON ALL MOTIONS IN THIS COMMITTEE TODAY

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

BUSINESS AND LABOR

G - 1.10.10.20.25
S - 1.10.10.20.25

DATE

1/19/05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. VICKI COCCHIARELLA, CHAIRWOMAN	X		
SEN. JOE BALYEAT	X		
SEN. DUANE GRIMES	X		
SEN. DAVE LEWIS	X		
SEN. GLENN ROUSH	X		
SEN. FRANK SMITH	X		
SEN. CAROLYN SQUIRES	X		
SEN. DONALD STEINBEISSER	X		
SEN. BILL TASH	X		
SEN. JON TESTER			X
SEN. JOE TROPILA	X		
PAT MURDO, LSD	X		
ANNIE GLOVER, COMMITTEE SECRETARY	X		



SENATE STANDING COMMITTEE REPORT

January 19, 2005

Page 1 of 1

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that Senate Bill
189 (first reading copy -- white) **do pass.**

Signed: _____

Vicki Cocchiarella
Senator Vicki Cocchiarella, Chair

- END -

Committee Vote:
Yes 11, No 0.

141046SC.ssc

KJ

BUSINESS AND LABOR

DATE 1/19/05 BILLS BEING HEARD TODAY SB 8, SB 184, SB 189

PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JIM KEANE**, on March 8, 2005 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Jim Keane, Chairman (D)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Joe McKenney, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Bob Bergren (D)
Rep. Tim Dowell (D)
Rep. Kevin T. Furey (D)
Rep. Dave Gallik (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Mike Jopek (D)
Rep. Harry Klock (R)
Rep. Scott Mendenhall (R)
Rep. Mike Milburn (R)
Rep. Don Roberts (R)
Rep. Wayne Stahl (R)
Rep. Dan Villa (D)
Rep. Jonathan Windy Boy (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 137, 3/4/2005; SB 117, 3/4/2005;
SB 243, 3/4/2005; SB 188, 3/4/2005;
SB 189, 3/4/2005
Executive Action: SB 117, SB 188, SB 189, SB 243, SB
84

HEARING ON SB 137

Opening Statement by Sponsor:

SEN. DAVE LEWIS (R), SD 42, opened the hearing on SB 137, License tattoo and body-piercing businesses.
00:03:14

Proponents' Testimony:

00:10:41 Janet Stetzer, Department of Public Health
EXHIBIT(buh51a01)
00:13:55 Joan Miles, Lewis and Clark County Health
Department
00:16:35 Pat Melby, Montana Medical Association

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:17:36

Closing by Sponsor:

00:26:08

HEARING ON SB 117

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA (D), SD 47, opened the hearing on SB 117, Revise state mortgage brokers act.
00:27:06

Proponents' Testimony:

00:28:11 Annie Goodwin, Commissioner of Banking
00:33:33 Kristi Blazer, Association of Mortgage Brokers

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:35:18

Closing by Sponsor:

00:36:17

HEARING ON SB 243

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA (D), SD 47, opened the hearing on SB 243, Eliminate restriction on beer wholesaler subwarehouses.

00:37:49

Proponents' Testimony:

00:39:05 Kristi Blazer, Beer and Wine Wholesalers Association

00:41:22 Dale Marcovich, Summit Beverage

EXHIBIT(buh51a02)

00:44:23 Dave Huett, Fossen Distribution

00:44:38 Elaine Taylor, Miller Brewing Company

00:45:05 Mark Taylor, Anheuser Busch Company

Opponents' Testimony: None

Informational Testimony:

00:45:45 Neil Peterson, Department of Revenue

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:46:24

HEARING ON SB 188

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA (D), SD 47, opened the hearing on SB 188, Clarify role and responsibility of work comp adjusters.

00:48:01

Proponents' Testimony:

00:52:35 Nancy Butler, State Fund

00:53:02 Bob Worthington, Municipal Insurance Authority

00:53:43 Shawn Bubb, Montana School Board Association

00:54:12 Jed Fitch, Trial Lawyers Association

Opponents' Testimony: None

Informational Testimony:

00:55:11 Jerry Keck, Department of Labor

Questions from Committee Members and Responses:

00:55:28

Closing by Sponsor:

01:01:51

HEARING ON SB 189

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA (D), SD 47, opened the hearing on SB 189, Clarify conditions for work comp impairment evaluation.

01:03:08

Proponents' Testimony:

01:05:48 Nancy Butler, State Fund

01:06:03 Shawn Bubb, Montana School Board Association

01:06:23 Bob Worthington, Municipal Insurance Authority

Opponents' Testimony: None

Informational Testimony:

01:06:53 Jerry Keck, Department of Labor

Questions from Committee Members and Responses: None

Closing by Sponsor:

01:07:18

EXECUTIVE ACTION ON SB 117

Motion: REP. GALVIN-HALCRO moved that SB 117 BE CONCURRED IN.

Discussion:

01:09:06

Vote: Motion carried unanimously by voice vote. REP. VILLA to carry.

EXECUTIVE ACTION ON SB 188

Motion/Vote: REP. GALVIN-HALCRO moved that SB 188 BE CONCURRED IN. Motion carried unanimously by voice vote. REP. MILBURN to carry.

EXECUTIVE ACTION ON SB 189

Motion: REP. GALLIK moved that SB 189 BE CONCURRED IN.

Discussion:

01:12:54

Vote: Motion carried unanimously by voice vote. REP. GALLIK to carry.

EXECUTIVE ACTION ON SB 243

Motion/Vote: REP. MENDENHALL moved that SB 243 BE CONCURRED IN. Motion carried 17-1 by voice vote with REP. VILLA voting no. REP. FUREY will carry.

EXECUTIVE ACTION ON SB 84

Motion: REP. GALVIN-HALCRO moved that SB 84 BE CONCURRED IN.

Discussion:

01:18:15

Without objection REP. GALVIN-HALCRO withdrew her motion.

ADJOURNMENT

Adjournment: 9:25 A.M.

REP. JIM KEANE, Chairman

KYANNE KELLY, Secretary

JK/kk

Additional Exhibits:

EXHIBIT (buh51aad0.TIF)

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 3-8-05

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. JIM KEANE, CHAIR.	✓		
REP. KATHLEEN GALVIN- HALCRO, VICE CHAIR	✓		
REP. JOE McKENNEY, VICE CHAIR	✓		
REP. ELSIE ARNTZEN	✓		
REP. BOB BERGREN	✓		
REP. TIM DOWELL	✓		
REP. KEVIN FUREY	✓		
REP. DAVE GALLIK	✓		
REP. RALPH HEINERT	✓		
REP. LLEW JONES	✓		
REP. MIKE JOPEK	✓		
REP. HARRY KLOCK	✓		
REP. SCOTT MENDENHALL	✓		<i>[Signature]</i>
REP. MIKE MILBURN	✓		
REP. DON ROBERTS	✓		
REP. WAYNE STAHL	✓		
REP. DAN VILLA	✓		
REP. JONATHAN WINDY BOY	✓		



HOUSE STANDING COMMITTEE REPORT

March 8, 2005

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **Senate Bill 189** (third reading copy -- blue) be concurred in.

Signed: _____

Jim Keane
Representative Jim Keane, Chair

To be carried by Representative Dave Gallik

- END -

Committee Vote:
Yes 18, No 0.

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3/08/05
jbn

VISITORS REGISTER

Montana

House of Representatives

Business & Labor Committee

Bill Number: SB 189

Date: 3/8/05

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Name	Representing	Support	Witness	Comments
Shawn Bubb	MSGIA	X		
Bob Northington	MSIA MSIP	X		
Nancy Butler	MT State Fund	X		
Jerry Red	MT Dept. of Labor			X

Please leave prepared testimony with Committee Secretary. Witness
Statement forms are available if you care to submit written testimony.